

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CAROLYN WALDRON & DENISE
WALDRON,

Plaintiffs,

Civil Action No. 19-16928 (RBK) (KMW)

v.

LISA KOZACHYN, *et al.*,

Defendants.

MEMORANDUM ORDER

This matter comes before the Undersigned¹ upon Carolyn Waldron and Denise Waldron's (collectively, "Plaintiffs") Complaint (ECF No. 1), application to proceed *in forma pauperis* (IFP App., ECF No. 1-1), and Motion for a Temporary Restraining Order ("TRO") (ECF No. 2). As a preliminary matter, the Court grants Plaintiffs' IFP application based on the strength of Plaintiffs' allegations of indigence.² The Clerk, accordingly, shall file the Complaint.³ For the reasons set forth below, however, the Court denies Plaintiffs' Motion for a TRO.

"Preliminary injunctive relief is an 'extraordinary remedy, which should be granted only in limited circumstances.'" *Ferring Pharms., Inc. v. Watson Pharms., Inc.*, 765 F.3d 205, 210 (3d Cir. 2014) (quoting *Novartis Consumer Health, Inc. v. Johnson & Johnson-Merck Consumer Pharms. Co.*, 290 F.3d 578, 586 (3d Cir. 2002)). Plaintiffs bear the burden of establishing they are "likely to succeed on the merits, . . . likely to suffer irreparable harm in the absence of

¹ The Clerk's Office assigned Plaintiffs' Motion for a Temporary Restraining Order to the Undersigned for consideration.

² The Court notes Plaintiffs' typographical error on the IFP application, which indicates an average monthly retirement income of \$14,484, instead of \$1,207. (IFP App. 2.)

³ Summons shall not issue at this time as the Court's *sua sponte* screening pursuant to 28 U.S.C. § 1915 has not yet been completed. Here, the Court solely considers Plaintiffs' Motion for a TRO.

preliminary relief, that the balance of equities tips in [their] favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (citations omitted).

“A plaintiff’s failure to establish any element in its favor renders a preliminary injunction [or a TRO] inappropriate.”⁴ *Nutrasweet Co. v. Vit-Mar Enters.*, 176 F.3d 151, 153 (3d Cir. 1999).

Plaintiffs request the Court to issue “an immediate TRO, without notice . . . to stop elderly abuse . . . [and] to protect [Plaintiffs] from homelessness and mental abuse and harassment by Defendants.” (TRO App. ¶¶ 31-32.) According to Plaintiffs, they will suffer immediate harm because “[o]n or about August 14, 2019, Carolyn received Notice . . . that Denise must leave MEWS or MEWS would remove both Carloyn and Denise. Said Notice comprises immediacy without a date.” (*Id.* ¶ 21.)

The August 14, 2019 Notice to Cease referenced by Plaintiffs, however, provides:

If you do not **CEASE** and **STOP** substantially breaching or violating your Lease Agreement as set forth above and/or if you continue to violate your Lease Agreement in the same or similar manner as described in this notice, you will be served with a **NOTICE TO QUIT**, which will terminate the tenancy, and require you to vacate the premises on the date set forth in that notice.

(Compl. Ex. D (emphasis in original), ECF No. 1-4.) There is no indication from the motion papers that Defendants issued a Notice to Quit. Consequently, the Court finds that Plaintiffs failed to demonstrate that they will suffer immediate and irreparable harm and failed to make a sufficient showing to justify emergent *ex parte* relief. Accordingly,

⁴ Because the Court finds Plaintiffs failed to establish immediate and irreparable harm, the Court does not address the remaining preliminary injunction factors.

IT IS on this 20th day of August 2019, **ORDERED** that:

1. Plaintiffs' Motion for a TRO (ECF No. 2) is **DENIED WITHOUT PREJUDICE**.
2. Plaintiffs shall provide a copy of this Memorandum Order to Defendants by **August 26, 2019**.

s/ Michael A. Shipp

MICHAEL A. SHIPP

UNITED STATES DISTRICT JUDGE